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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,672	09/15/2003	Anthony Chernetsky	45,024	9136
28309	7590	12/21/2004	EXAMINER	
BOWERS HARRISON LLP GARY K. PRICE, ESP. 25 RIVERSIDE DRIVE PO BOX 1287 EVANSVILLE, IN 47706-1287			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/661,672

Applicant(s)

CHERNETSKY, ANTHONY

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helleu (781,287) in view of Basso (5,413,348). Regarding amended claim 1, note the rejections of claims 1 and 2 set forth in the first Office Action.

Regarding claims 3-6, note the rejections set forth in the first Office Action.

Regarding claim 7, note the rejections of claims 7 and 8 set forth in the first Office Action.

Regarding claims 9 and 10, note the rejections set forth in the first Office Action.

***Response to Arguments***

3. Applicant's arguments have been fully considered but are not deemed to be persuasive. The applicant contends that the reference to Helleu requires a special head section (2) to hold the ball whereas the current invention allows the golfer to utilize a standard tee. Further, the applicant contends that neither Basso nor Helleu teach a crimped sleeve. The applicant argues that Basso provides a flexible corrugation in the tee member not in the ground engaging pointed portion. Further, the applicant states that the walls of reduced diameter of Basso do not teach a crimp as claimed.

However, this is not persuasive as the instant claims fail to preclude the use of the tee as taught by Helleu. Instant claims 1, 7 and 8 merely require a golf tee member having a stem portion and a circular head portion. Clearly, the ball supporting member (2) teaches this structure by including a stem portion (4). The applicant's argument that the section of reduced

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diameter taught by Basso is in the tee section and not the ground engaging portion is not persuasive either as the rejection is over the combination of Helleu in view of Basso. Helleu provides an elongated sleeve (5) constructed of flexible material that is supposed to bend upon impacts (note Figure 1). The reference to Basso is relied upon merely for its teaching that it is old and well known in the art of golf tees to provide a crimped section along the length in order to facilitate bending at a particular point. It would have been obvious to one of ordinary skill in the art to form the sleeve portion of Helleu with a crimped portion as taught by Basso in order to facilitate deformation of the sleeve about a particular point.

Regarding the applicant's argument that the section of reduced diameter of Basso does not comprise a crimped portion, attention is directed to the attached dictionary definition for "crimp". Here, the definition merely requires something that is bent or wavy or pinched or pressed together. Clearly, the section of reduced diameter (a-a) of Basso fulfills this definition.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

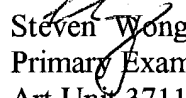
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
December 16, 2004